

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10597 of 2023

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Md. Zahid Alam, son of Alim Uddin, Resident of Village-Sontha, P.S.-
Kochadhaman, District-Kishanganj, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Sub Divisional Officer, Kishanganj.
3. The Block Supply Officer, Kochadhaman, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep
For the Respondent/s	:	Mr. Arvind Ujjwal, SC 4.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

3 16-10-2023 Heard learned counsel for the parties.

2. For the reason of the petitioner having been made accused in a criminal case, involving breach of E.C. Act, 1955, a notice under Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 was issued to the petitioner, a licensee under the PDS Scheme. Simultaneously, his licence was suspended. After the receipt of the show cause reply. the Licensing Authority took a decision to cancel the licence of the petitioner.

3. Learned counsel for the petitioner has drawn the attention of this Court to the reason assigned for cancelling the licence of the petitioner. The fact that the criminal case is still pending investigation and the petitioner has not been given a clean chit in such investigation, has weighed heavily with the Licensing Authority in cancelling the licence. Similar ground has been taken by the appellate and the revisional authorities in upholding the



order passed by the Licensing Authority.

4. After having heard the counsel for the parties and having perused the records, this Court is of the view that the Licensing Authority ought to have taken his independent decision on the charges against the petitioner in the notice, his reply to the aforesaid charges and other surrounding circumstances. That a criminal case has been lodged against the petitioner is without any doubt or else no notice under Clause 28 would have been issued to the petitioner. The pendency of the investigation or the criminal case, cannot be the sole ground for cancellation of licence. If that were so, then there was no necessity of seeking explanation from the licensee, and a decision to be taken by the Licensing Authority on such reply within a period of 180 days. If the investigation report of the criminal case would be treated as the sole basis for a decision whether licence has to be retained or withdrawn or cancelled, such Clause (Clause No. 28) would not have been there in the Control Order, 2016 and continuance of the licence would have been dependent on the investigation report of the criminal case. This Court finds that the Licensing Authority and the appellate as well as the revisional authorities have missed out on this aspect of the matter and primarily for the reason of pendency of the criminal case, the licence of the petitioner has been cancelled.



5. This Court cannot sustain such orders.

6. For the reason afore-stated, all the orders impugned in the present petition are set aside. The matter is remitted to the Licensing Authority to pass a fresh order in accordance with law, after advertng to the reply already filed by the petitioner.

7. Lest this Court may not be misunderstood, this Court make it clear that the factum of the petitioner being an accused of the criminal case and the investigation remaining pending could be an important consideration which could be factored in the decision-making, but that cannot be the sole ground for cancelling the licence.

8. On presentation/production of a copy of this order before the Licensing Authority, the decision shall be taken by him within a period of 60 days thereafter, giving reasons in support of such cases.

9. With the above observations, the present Writ Petition stands allowed.

(A. Abhishek Reddy , J)

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